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AN ACT
RESPECTING
LAND SURVEYORS
AND THE
SURVEY OF LANDS.

BEING CAP. 77 OF THE CONSOLIDATED STATUTES OF CANADA, DECLARED
TO BE IN FORCE BY PROCLAMATION OF HIS EXCELLENCY THE
GOVERNOR GENERAL, UNDER THE AUTHORITY OF
THE ACT 22 VICT., (1859,) C. 29.



QUEBEC:
PRINTED BY STEWART DERBISHIRE & GEORGE DESBARATS,
LAW PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

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EXTRACTED

FROM THE

CONSOLIDATED STATUTES OF CANADA.

C A P . L X X V I I .

An Act respecting Land Surveyors and the Survey of Lands.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

BOARDS OF EXAMINERS.

1. There shall be two Boards of Examiners for the examination of Candidates for admission to practise as Land Surveyors, one to consist of the Commissioner of Crown Lands, and eight other competent persons to be appointed from time to time by the Governor, and to meet at the City of Quebec for the examination of Candidates for admission to practise as Land Surveyors in Lower Canada, and the other to consist of the said Commissioner of Crown Lands, and eight other competent persons to be appointed from time to time by the Governor, and to meet at the City of Toronto for the examination of Candidates for admission to practise as Land Surveyors in Upper Canada. 14, 15 V. c. 4, s. 2.

Two Boards of
Examiners—
one for Lower
and one for
Upper Canada,
to consist of
eight members
each.

2. Each Member of each of the said Boards shall take an oath of Office, and any three of the Members of either of the said Boards, shall form a quorum. 12 V. c. 35, s. 4, and 14, 15 V. c. 4, s. 2.

3. Each of the said Boards, or a majority thereof, shall from time to time appoint a fit and proper person to be Secretary of the Board, who shall attend the sittings thereof, and keep a record of its proceedings. 14, 15 V. c. 4, s. 5,—12 V. c. 35, s. 5.

4. Each of the said Boards shall meet at the Office of the Commissioner of Crown Lands, on the first Monday in each of the months Meetings when and where to be held.

months of January, April, July and October, in every year, unless such Monday be a Holiday, (in which case they shall meet on the day next thereafter not being a holiday,) and may adjourn such meeting from time to time if they deem it necessary. 14, 15 V. c. 4, s. 6,—12 V. c. 35, s. 6.

LAND SURVEYORS.

Who may act as Land Surveyors.

5. No person shall act as a Surveyor of Lands within this Province unless he has been duly authorized to practise as a Land Surveyor according to the provisions of this Act, or had been so authorized before the passing hereof, according to the Laws then in force. 18 V. c. 83, s. 2.

APPRENTICES.

Qualification for admission as an apprentice and examination of applicants.

6. No person shall be admitted as an apprentice with any Provincial Land Surveyor, unless he has previously passed an examination before one of the Boards of Examiners, or before one of the Members thereof, or before some Surveyor deputed by the Board for the purpose, as to his knowledge of Vulgar and Decimal Fractions, the extraction of the Square and Cube root, of Geometry, plain Trigonometry, Mensuration of Superficies, and the use of Logarithms, and shall have obtained a Certificate of such examination and of his proficiency, from such Board. 18 V. c. 83, s. 4.

Examination Fee.

7. Before being so examined he shall pay into the Fee Fund the sum of ten dollars as the fee due by him on such examination, and a further sum of two dollars to the Secretary for the said Certificate. 18 V. c. 83, s. 4.

Notice to be given by applicants.

8. Applicants for such examination previous to apprenticeship, shall give one month's notice to the Secretary of the proper Board, of their intention to present themselves for examination and pay to such Secretary a fee of one dollar for receiving and entering such notice. 18 V. c. 83, s. 4.

WHO MAY BE ADMITTED TO PRACTICE.

Qualification for admission to practice.

9. No person shall be admitted to practise as a Land Surveyor in and for Upper Canada or Lower Canada, until he has attained the full age of twenty-one years, nor unless he has gone through a course of Geometry, including at least the first six books of Euclid, and plain Trigonometry, Mensuration of Superficies, Plotting and Map Drawing, and is well versed therein, and is also sufficiently conversant with Spherical Trigonometry and Astronomy, to enable him to ascertain the latitude, and to draw a meridian line, and is conversant with the rudiments of Geology, and has served regularly and faithfully, for and during the space of three successive years, under an Instrument in writing duly executed before two witnesses,

witnesses, or in Lower Canada under a Notarial *Acte*, as Apprentice to a Land Surveyor for Upper Canada, or Lower Canada, duly admitted and practising therein as such, nor until he has received from the said Land Surveyor a certificate of his having so served during the said period. 20 V. c. 37,—12 V. c. 35, s. 3,—19 V. c. 13, s. 3.

10. It shall not be necessary for any person who has been admitted to practise as a Land Surveyor in Lower Canada to serve under an Instrument in writing during three years as aforesaid in Upper Canada, in order to be admitted to practise in Upper Canada, but it shall only be necessary for any such person so to serve during six months of actual practice in the field with a Land Surveyor duly admitted and practising in Upper Canada, after which on complying with all the other requirements hereof, he may undergo the examination by this Act prescribed, and the like rule shall apply to persons admitted to practise in Upper Canada who wish to practise in Lower Canada.

Persons admitted in one section of the Province may be admitted to practise in the other—under what circumstances.

11. It shall not be necessary for any Land Surveyor duly admitted to practise in any of Her Majesty's Dominions other than this Province, to serve under an Instrument in writing during three years as aforesaid, but it shall only be necessary for any such person so to serve during twelve successive months of actual practice, after which on conforming with all the other requirements hereof, he may undergo the examination by this Act prescribed. 12 V. c. 35, s. 3.

Admission of persons previously admitted in any part of Her Majesty's Dominions.

12. No instrument in writing under which any applicant for admission to practise as a Surveyor claims to have served with some practising Surveyor for the period of three years, one year, or six months (*as the case may be*), shall avail to authorize the admission of such applicant, unless such instrument, if executed before witnesses, or a notarial copy thereof if it be a notarial instrument, has been transmitted to the Secretary of the Board before whom the applicant is to be examined, within two months next after the date thereof, nor unless the fee mentioned in the Schedule to this Act, was by the apprentice paid to the Secretary of the proper Board at the time of transmitting the Indenture or Articles; and the said Secretary shall acknowledge by post the receipt of all such instruments or copies thereof transmitted to him, and shall carefully keep the same in his office. 18 V. c. 83, s. 3,—14, 15 V. c. 4, s. 6.

Instruments binding to service to be filed, &c.

13. Any person who, before the passing of this Act, has been duly and *bond fide* Apprenticed under some agreement in writing to a Land Surveyor duly admitted and practising in and for Upper Canada or Lower Canada, and has served regularly and faithfully as such, shall be entitled to reckon the time he has so served as part of the three years during which, under this Act, he ought to serve before he can be admitted as

The case of persons apprenticed at the passing of this Act provided for.

a Land Surveyor, provided he afterwards completes the remainder of the said period of three years, according to the requirements of this Act; And provided also, that the fact of his having so served before the passing of this Act, be proved on oath, by himself, and by other evidence to the satisfaction of the Board of Examiners, any one of whom may put the requisite questions, and administer the requisite Oath or Affidavit, and such oath or affidavit shall be signed by the person making the same, and remain with the said Board. 12 V. c. 85, s. 3.

Informalities
not to vitiate
instruments of
service.

14. No applicant for admission as a Land Surveyor claiming to have served previous to the nineteenth day of May, one thousand eight hundred and fifty-five, shall be rejected for mere *informality* in or technical objection to the "instrument in writing" under which he claims to have served, or to the date of the transmission or deposit thereof with the Secretary of the proper Board of Examiners, if he proves to the satisfaction of such Board that he did so serve *bond fide*. 18 V. c. 83, s. 5.

If master dies,
service may
be completed
with another
Surveyor.

15. If any Surveyor dies or leaves the Province, or is suspended or dismissed, his Apprentice may complete his term of Apprenticeship, under an Instrument in writing as aforesaid, with any other Surveyor duly admitted. 12 V. c. 85, s. 3.

Instruments of
apprenticeship
may be trans-
ferred.

16. Any Surveyor may, by an Instrument in writing as aforesaid, transfer an Apprentice, with his own consent, to any other Surveyor duly admitted, with whom he may serve the remainder of the term of his apprenticeship. 12 V. c. 85, s. 3.

The case of
persons who
received Uni-
versity degrees
or diplomas as
Engineers or
Land Sur-
veyors provided
for.

Apprenticeship
limited.

17. Any person who after having first passed the preliminary examination hereinbefore required for admission to Apprenticeship with a Land Surveyor, has followed a regular course of study in all the branches of education required by law for final admission as a Land Surveyor, through the regular sessions for at least two years, in any University of this Province wherein there may be organized a complete course of instruction, practical as well as theoretical, in Civil Engineering, Natural Philosophy, Geology, and the other branches of education required by law for such admission as a land Surveyor, and who has thereupon received from such University, after due examination, a Degree or Diploma of Qualification as a Civil Engineer and Land Surveyor, may be received as an Apprentice by any Land Surveyor in Upper or Lower Canada, and shall thereupon be only holden to serve as such Apprentice during twelve months of actual service, or, if he has passed through such University course of study in less time than two full years, then for such time of actual service as with the period spent by him in such University course of study suffices to make up the full time of three years; and after such actual service, such person shall, subject to the other provisions of this

this Act, have the same right to present himself for, and to undergo the examination required by law, and, if found qualified, then to be admitted to practise as a Land Surveyor in Upper or Lower Canada, as the case may be, as if he had served the full three years' Apprenticeship otherwise required by law. 20 V. c. 37, s. 1.

18. Every person desiring to be examined before either of the said Boards as to his qualification to be admitted as a Land Surveyor, shall give due notice thereof in writing to the Secretary of the Board, at least one month previous to the meeting thereof. 12 V. c. 35, s. 7,—14, 15 V. c. 4, s. 3.

19. Before any person is admitted to practise as a Land Surveyor in Upper Canada, or for Lower Canada, he shall be publicly examined with respect to his ability, and the sufficiency of his instruments, by one of the said Boards of Examiners, as the case may be, and moreover the further to promote the collection of geological information, all persons who apply to be admitted as Provincial Land Surveyors, shall be examined in the rudiments of Geology; and the Director of the Geological Survey shall, with that object, be a member of both the Boards of Examiners. 19 V. c. 13, s. 3,—12 V. c. 35, s. 4.

20. The said Examiners shall cause all persons applying for admission to practise as such Land Surveyors, to produce satisfactory Certificates as to character for probity and sobriety, and to perform such practical operations in their presence as they may require, previous to their giving him their Certificate, and to answer such questions on oath, (which oath any one of the Examiners may administer) with regard to the actual practice of such applicant in the field and with regard to his instruments.

21. If the said Examiners are satisfied of his ability as hereinbefore provided, and of his having complied with all the requirements of this Act, and of the sufficiency of his surveying instruments, they shall give him a Certificate thereof, and of his being admitted as a Land Surveyor, in the form following: 12 V. c. 35, s. 4.

This is to certify to all whom it may concern, that A. B., of Form of the certificate.
 in the County (or District) of
 hath duly passed his Examination before the Board of Examiners, and hath been found qualified to fill the office and perform the duties of a Provincial Land Surveyor in and for Upper (or Lower) Canada, he having complied with all the requirements of the Law in that behalf. Wherefore the said A. B., is admitted to the said Office, and is by Law authorized to practise as a Land Surveyor in Upper (or Lower) Canada.

In

In witness whereof, We have signed this Certificate at
 in the County (or District) of _____ Province
 of Canada, the _____ day of
 one thousand eight hundred and _____

Signature of the President, C. D.,

Signature of the Secretary, E. F.

The certificate
 shall entitle the
 party to prac-
 tise.

And such Certificate shall, on his complying with the other requirements of this Act, enable him to practise as a Land Surveyor in and for Upper Canada or in and for Lower Canada, as the case may be. 12 V. c. 35, s. 4. and Schedule.

Licentiates to
 give bonds and
 take the oath
 of allegiance
 and of office.

22. Each applicant, after receiving the above mentioned Certificate, shall, with two sufficient sureties to the satisfaction of the said Board of Examiners, enter into a bond jointly and severally in the sum of one thousand dollars, to Her Majesty, Her Heirs and Successors, conditioned for the due and faithful performance of the duties of his office, and shall take and subscribe the oath of allegiance, and the following oath, before the Board of Examiners who are hereby empowered to administer the same :

“ I, A. B. do solemnly swear (or affirm, as the case may be) “ that I will faithfully discharge the duties of a Land Surveyor, “ agreeably to law, without favour, affection or partiality. So “ help me God.” 12 V. c. 35, s. 9.

Where oaths to
 be deposited.

23. The said oath of allegiance and of office, shall, if taken in Lower Canada, be deposited in the office of the Prothonotary of the Superior Court in the District of Quebec ; and if taken in Upper Canada, in the Registry Office in the County of York. 14, 15 V. c. 4, s. 5.

Where bonds to
 be deposited.

24. The said bond shall be deposited and kept in the manner by law prescribed with regard to the bonds given for like purposes by other public officers, and shall enure to the benefit of any party sustaining damage by breach of the condition thereof ; and the certificate shall be registered in the office of the Registrar of the Province. 12 V. c. 35, s. 9.

When the
 Board may sus-
 pend licensed
 Surveyors.

25. The Board of Examiners may in their discretion suspend or dismiss from the practice of his profession, any Land Surveyor whom they may find guilty of gross negligence or corruption in the execution of the duties of his office ; but the Board shall not suspend or dismiss such Land Surveyor, without having previously summoned him to appear in order to be heard on his defence, nor without having heard the evidence, offered either in support of the complaint or in behalf of the Surveyor inculpated. 12 V. c. 35, s. 10.

26. The Commissioner of Crown Lands shall pay to each Member of either of such Boards not being a salaried Officer of the Government, who attends any Examination, the sum of five dollars for each day's attendance, and charge the same in his account as part of the expenses of his Office. 18 V. c. 83, s. 1.

Fees to be paid to the members of the Boards.

BOUNDARY LINES.

27. All boundary or division lines legally established, and ascertained under the authority of any Ordinance or Act heretofore or by the first chapters of the Consolidated Statutes of Canada or for Upper Canada repealed, shall remain good, and all other acts and things legally done and performed under the authority of the said Ordinance and Acts, or any of them, and in conformity to the provisions thereof, shall remain good and valid notwithstanding such repeal, and all prosecutions and all actions or suits at law or in equity actually commenced before the passing of this Act, under the provisions of any former Ordinance or Act, may be continued, tried and determined, and execution may be done therein, as if this Act had not been passed. 12 V. c. 35, s. 1.

The establishment of boundary lines regulated.

28. The Standard of English Measure of length, and the Standard of the old French Measure of length, compared with and corrected by the Standards for such Measures established in this Province, and procured by the Commissioner of Crown Lands for the purpose of comparing therewith the Standards to be kept by each Surveyor as hereinafter provided, shall be deposited as follows, namely, the Standard English Measure of Length shall be deposited with the Secretary of the Board of Examiners at Toronto, and the Standard French Measures of Length, and a copy of the said Standard English Measures of Length, (which copy shall be hereafter used as a standard for the purposes of this Act) shall be deposited with the Secretary of the Board of Examiners at the City of Quebec, and the said Secretaries respectively, under such instructions as they from time to time receive from their respective Boards, shall examine, test and stamp Standard Measures of Length for the Surveyors bringing the same for examination as the Commissioner of Crown Lands may do and with the same effect, and for each measure so examined and stamped such Secretary may demand and receive fifty cents. 14, 15 V. c. 4, s. 8.

The standards of measure regulated.

29. Every Land Surveyor duly admitted, and practising for Upper or Lower Canada, shall procure and shall cause to be examined, corrected and stamped or otherwise certified by the Commissioner of Crown Lands, or some one deputed by him for that purpose, or by one of the Secretaries aforesaid, a Standard Measure of length, under the penalty of the forfeiture of his License or Certificate, and shall, previously to proceeding on

Surveyors to procure stamped standard measures.

on any survey verify by such standard, the length of his chains and other instruments for measuring. 12 V. c. 35, s. 13.

Chain-bearers
to be sworn
and nature of
the oath.

30. Every chain-bearer, whether acting in Upper or in Lower Canada, shall, before he commences his chaining or measuring, take an oath or affirm, to act as such justly and exactly according to the best of his judgment and abilities, and to render a true account of his chaining or measuring to the Surveyor by whom he has been appointed to such duty, and that he is absolutely disinterested in the survey in question, and is not related or allied to any of the parties interested in the survey within the fourth degree, according to the computation of the civil law, that is to say, within the degree of Cousin German, which oath the Surveyor employing such chain-bearer is hereby authorized and required to administer; nor shall any person related or allied to any of the parties within the said degree, be employed as a chain-bearer on any survey. 12 V. c. 35, s. 11.

Penalty for
obstructing
land Survey-
ors in the ex-
ecution of sur-
veys.

31. If any person or persons, in any part of this Province, interrupts, molests or hinders any Land Surveyor, while in the discharge of his duty as a Surveyor, such person or persons shall be guilty of a misdemeanor, and being thereof lawfully convicted in any Court of competent jurisdiction, shall be punished either by fine or imprisonment, or both, in the discretion of such Court, such imprisonment being for a period not exceeding two months, and such fine not exceeding twenty dollars, without prejudice to any civil remedy which such Surveyor or any other party may have against such offender or offenders, in damages by reason of such offence. 12 V. c. 35, s. 14.

When Land
Surveyors
may pass over
private lands.

32. Any Land Surveyor, when engaged in the performance of the duties of his profession, may pass over, measure along and ascertain the bearings of any township line, concession or range line or other government line or side line, and for such purposes may pass over the lands of any person whomsoever, doing no actual damage to the property of such person. 12 V. c. 35, s. 14.

The course to
be adopted by
Surveyors to
ascertain
boundary
lines when
doubtful, &c.

33. When any Surveyor is in doubt as to the true boundary or limit of any Township, Scigniory, Concession, Range, Lot or Tract of Land which he may be employed to survey, and has reason to believe that any person is possessed of any important information touching such boundary or limit, or of any writing, plan or document tending to establish the true position of such boundary or limit, then if such person does not willingly appear before and be examined by such Surveyor, or does not willingly produce to him such writing, plan or document, such Surveyor or the party employing him, may file in the office of the County Court, if the survey be in Upper Canada, or of the Circuit Court, if the survey be in Lower Canada, a *Præcipe* for

for a *Subpæna* or *Subpæna duces tecum*, as the case may require, accompanying such application by an affidavit or solemn declaration to be made before a Justice of the Peace, of the facts on which the application is founded, and the Judge may order a *Subpæna* to issue accordingly, commanding such person to appear before the Surveyor, at a time and place to be mentioned in the said *Subpæna*, and to bring with him any writing, plan or document mentioned or referred to therein. 18 V. c. 83, s. 7.

34. Such *Subpæna* shall be served on the person named therein by delivering a copy thereof to him, or by leaving the same for him with some grown person of his family at his residence, exhibiting to him or to such grown person, the original. 18 V. c. 83, s. 7.

35. If the person commanded to appear by such *Subpæna*, after being paid his reasonable expenses, or having the same tendered to him, refuses or neglects to appear before the surveyor at the time and place appointed in the *Subpæna*, or to produce the writing, plan or document (if any) therein mentioned or referred to, or to give such evidence and information as he may possess touching the boundary or limit in question, the person so summoned shall be deemed guilty of a contempt of the Court out of which the *Subpæna* issued, and an Attachment may be issued against him by the Judge of the said Court, and he may be punished accordingly, by fine or imprisonment, or both, in the discretion of such Judge. 18 V. c. 83, s. 7.

SPECIAL PROVISIONS RELATING TO LOWER CANADA.

36. Every Land Surveyor who surveys or admeasures lands in Lower Canada, shall, when thereunto required by the parties, place one or more boundary marks of stone, either to mark the boundary of any property or to show the course of any line of division, of which boundary marks, the length above ground shall be six inches at least, between Seigniors or between Co-Seigniors, or between two Townships, or between a Seigniory and a Township, or between the Waste Lands of the Crown and a Seigniory or Township, and at least three inches above the ground between persons holding grants in a Seigniory or Township, and at least twelve inches in the ground in every case; and under such boundary marks he shall place pieces of brick, or delf, or earthenware, slag of iron, or broken glass, and in the country parts and open ground, before every boundary mark, a post of squared timber. 12 V. c. 35, s. 15.

37. Every such Land Surveyor employed in any Survey in Lower Canada, as soon as his operations have been finished, if he has placed any boundary mark, or if thereunto required by any party employing him, or by the Court under whose order

*A Proceeds-Ver-
bal to be drawn
up.*

Under penalty. order he has acted, shall draw up a *Procès-Verbal*, in which he shall on pain of nullity and under the penalty imposed for any contravention of the last Section of this Act, insert the date of the said *Procès-Verbal*, and shall mention by the order of what Court or at whose desire and at what time or times he has operated, the residence of the parties and their additions, and his own name and residence. 12 V. c. 35, s. 16.

Contents of such *Procès-Verbal*.

38. In such *Procès-Verbal* the Surveyor shall, under the penalty last aforesaid, faithfully detail 1--what he has done according to the nature of the survey required of him, stating whether any and what title deeds were produced to him, according to which he may have guided his operations ; 2--what is the form and the area of ground which he has surveyed ; 3--what chainings he has performed, and what lines he has drawn, gone over or verified ; 4--what remarkable fixed object his lines may have intersected or run close to ; 5--the true and also the magnetical course by his instrument of any lines he has drawn or verified, and the day and place, when and where the variation of such instrument had been then last ascertained by him, and whether it was so ascertained by the public meridian lines or marks hereinafter mentioned, (if any such lines or marks are established) or by direct astronomical observation. 12 V. c. 35, s. 16.

To state what material has been placed under boundary marks.

39. He shall also state what he has put under any boundary marks he may have placed, their respective distances from each other, (when there are several,) and their distance from any remarkable and fixed object. 12 V. c. 35, s. 16.

The *Procès-Verbal* to be signed by the parties.

40. Such Land Surveyor shall, on pain of nullity, and of the penalty last aforesaid, cause such *Procès-Verbal* to be signed by the parties if they are present and able and willing to sign, and if they or any of them be not present or be unable or unwilling to sign, mention shall be made of the fact ; and any party assenting to the *Procès-Verbal*, but unable to sign, shall make his mark. 12 V. c. 35, s. 16.

And by the Surveyor, who shall preserve them and give copies.

41. Such *Procès-Verbal* shall be signed by the Land Surveyor and by two witnesses, the said *Procès-Verbal* being first read aloud in the presence of all the persons signing the same, and all such facts shall be mentioned in the *Procès-Verbal*, on pain of nullity and under the penalty last aforesaid, and he shall preserve the same as a minute, of which he shall give copies to the parties concerned. 12 V. c. 35, s. 16.

The minutes not to be erased or altered, but to be referred to in the *Procès-Verbal*.

42. The Surveyor shall not enter any interlineations nor make any erasure in his minutes, nor in the copies thereof, but shall mention the number of words struck out, and also the number of marginal references in each of his minutes, or copies of *Procès-Verbaux*, which references shall, in the minute, be signed with the initials of the parties, witnesses and Land Surveyor,

Surveyor, or of such of them as can sign, and in any copy by the initials of the Land Surveyor, otherwise they shall be null and void. 12 V. c. 35, s. 16.

43. Many *Procès-Verbaux* of Survey in Lower Canada having been drawn up in a manner substantially correct, but not in the precise form required, every *Procès-Verbal* existing in Lower Canada on the Second of August, 1851, which substantially contains the particulars requisite for the full understanding of the Survey or operation to which it relates, and of the doings of the Surveyor, and the intention of the parties interested with regard to the same, shall be held to be authentic and valid, and shall have effect according to the tenor thereof, whatever be the form in which the same may have been drawn up. 14, 15 V. c. 4, s. 7.

All *Procès-Verbaux* existing on the 2nd August, 1851, confirmed.

44. It having happened that boundary stones and other boundary marks have been placed by Surveyors, which have not the dimensions, or are not of the materials, or are not accompanied by the marks prescribed by law; Every such boundary mark in Lower Canada, placed by a Surveyor before the thirtieth of August, 1849, and referred to in his *Procès Verbal*, shall be held to be effective and valid, if its place can be ascertained from such *Procès Verbal*; whatever be the form, dimensions or material thereof. 12 V. c. 35, s. 18,—14, 15 V. c. 4, s. 7.

Boundary marks placed before the 30th August, 1849, confirmed.

45. Nothing contained in the two Sections last preceding, shall be construed to render valid or effective any *Procès Verbal*, or boundary made or placed since the Second of August 1851 or the 30th August, 1849, respectively, and with regard to which the absolute requirements of the law from those periods, respectively, on pain of nullity, have not been complied with, but such *Procès Verbal* or boundary shall be null and void and of no effect, except only that in places where stones of the proper size cannot be procured, (which fact shall appear by the *Procès Verbal*,) boundary marks of wood or other material may be used, and they shall have the same effect as the boundary marks of stone mentioned in this Act. 12 V. c. 35, s. 18.

The two last sections not to apply to operations performed since the 2d August, 1851 or 30th August, 1849, respectively.

46. In Cities, Towns and places in Lower Canada where, from local circumstances, boundary stones or marks cannot be placed, the Surveyor shall in his *Procès Verbal* mention the fact, and shall fix the boundaries and describe his operations, by referring to streets, neighbouring properties and other fixed objects, so as to enable any other Surveyor from such *Procès Verbal*, to repeat the operations, and ascertain the boundaries, points, lines and other particulars therein mentioned. 12 V. c. 35, s. 19.

The case of land marks in cities and towns provided for.

By what surveyors in surveys in townships shall be governed.

47. The Surveyor employed to make any Survey in the Townships of Lower Canada shall govern himself by the Surveys made under the plans and instructions issuing from the Office of the Commissioner of Crown Lands, or other Officer performing the duties of Surveyor General; and whenever it happens that the posts or boundary marks between any lots or ranges of lots have been effaced, removed or lost, such Surveyor may examine witnesses on oath, (which oath he is hereby authorized to administer), for the purpose of ascertaining the former boundaries, but if the same cannot be ascertained, then the Surveyor shall measure the true distance between the nearest undisputed posts, limits or boundaries, and divide such distance into such number of lots as the same contained in the original Survey, of a breadth proportionate to that intended in such original Survey, as shown on the plan and field-notes thereof of record in such Public Office as aforesaid, and when any part of any Concession or Range Line, intended in the original Survey to be straight, has been obliterated or lost, then the Surveyor shall run a straight line between the two nearest points or places where such line can be clearly and satisfactorily ascertained, and shall plant all such intermediate posts or boundaries as he may be required to plant in the line so ascertained, and the limits of each lot so found shall be the true limits thereof. 12 V. c. 35, s. 20.

The Governor may direct a meridian line to be marked in or near certain cities or towns in L. C.

48. The Governor may, if he at any time deems it expedient, direct a meridian line to be properly drawn and marked, or the bearings between certain fixed points and objects to be so ascertained as to enable a Surveyor thereby to ascertain the variation of his instrument from the meridian, in or near the Cities of Quebec and Montreal, and the Town of Three-Rivers, and the Towns of Sherbrooke and New Carlisle, by some Land Surveyor whom the Governor may appoint, and by which the Land Surveyors, operating in such Districts, may verify their instruments when necessary. 12 V. c. 35, s. 21.

What shall be measure of land in Lower Canada.

49. The measure for Land in Lower Canada shall be the same as it was before the Year of Our Lord one thousand seven hundred and sixty, in all grants of Seigniories, and in the Concessions which have therein been made up to the present time, but in the Townships of Lower Canada the measure for Land shall be English measure. 12 V. c. 35, s. 22.

Penalty for placing other materials than as required by the 36th section.

50. Every Land Surveyor who, in Lower Canada, puts as evidence or indications of his boundary marks, any other matter than is ordered by the thirty-sixth Section of this Act, shall for each offence incur a penalty of twenty dollars. 12 V. c. 35, s. 23.

Surveyors to preserve in regular order their *Procès-Verbaux*.

51. Every Land Surveyor practising in Lower Canada shall collect and place in regular and due order, all and every the minutes of *Procès-Verbaux* that may have been, or may be drawn

drawn up by him, in the order of time in which such *Procès-Verbaux* have been drawn up; and shall collate and put up minutes of his *Procès-Verbaux* of every year in separate bundles, folded and covered with strong paper in the manner of a register, on the back of which shall be endorsed the general contents of each bundle, and he shall make a repertory and index thereto. 12 V. c. 35, s. 24.

52. When any Land Surveyor practising in Lower Canada dies, his registers, minutes, plans and other papers relative to his professional acts, and signed by him, shall be holden to be public records of the Superior Court within the jurisdiction of which he may have acted as a Land Surveyor, and shall be deposited in the Office of the said Court, for the benefit of all persons therein concerned—who shall have free access thereto; and the Clerk or Clerks of the said Court shall deliver copies thereof to such persons as may require them, upon their paying the usual and legal fees; and the widow, or if there be no widow, the heirs of the Land Surveyor so deceased, and whose registers, minutes, plans and other papers have been so deposited, shall be entitled to an annual correct account of the fees received by the said Clerk or Clerks, for the copies so delivered, and to receive one half thereof, for and during the space of five years from the day of the decease of such Land Surveyor. 12 V. c. 35, s. 25.

When Surveyor dies the disposal of his minutes, plans, &c., provided for.

53. The provisions contained in the fifty-eighth to the sixty-fifth sections of this Act, both included, shall extend to, and apply as well to the lands held in free and common soccage in the Townships of Lower Canada as to lands in Upper Canada, and the powers in the said sections conferred upon County, Township, City, Town and Village Councils for carrying out the purposes of said sections in Upper Canada, shall be vested in, and exercised by Township, Parish, Town and Village Councils in Lower Canada, as the case may be, within which the lands, to which such provisions apply, may be situated; And the expenses of any survey made under the provisions of the said sections shall be paid by the Secretary-Treasurer of the Township, Parish, Town or Village Council within which such Survey is made, upon the certificate and order of the Commissioner of Crown Lands. 18 V. c. 83, s. 11.

Sections 58th to 65th of this Act, extended to lands in the townships of L. C.

Costs, how paid.

SPECIAL PROVISIONS RELATING TO UPPER CANADA.

54. Stone monuments or monuments of other durable materials, shall be placed at the several corners, governing points or off-sets of every Township already surveyed or after this Act takes effect from time to time surveyed in Upper Canada, and also at each end of the several Concession Lines of such Townships; and lines drawn in the manner hereinafter prescribed from the monuments so erected, shall be taken and considered

Stone monuments may be placed at certain points in Townships in U. C.

considered to be the permanent boundary lines of such Townships and Concessions, respectively. 12 V. c. 35, s. 26.

To be placed under the direction of the Commissioner of Crown Lands.

Boundaries ascertained as aforesaid in U. C., to be deemed the true ones.

55. The monuments to be placed as above mentioned shall be so placed under the direction and order of the Commissioner of Crown Lands. 12 V. c. 35, s. 27.

56. The courses and lengths of the said boundary lines, so ascertained and established, shall on all occasions be the true courses and lengths of the boundary lines of the said Townships and Concessions, whether the same do or do not, on actual survey, coincide with the courses and lengths in any Letters Patent of Grant or other Instrument mentioned and expressed in respect of such boundary lines. 12 V. c. 35, s. 28.

Monuments not to be placed in U. C., except on the application of the Municipal Council.

57. It shall not be necessary for the Commissioner of Crown Lands, to proceed to carry the provisions of the three last preceding Sections of this Act into execution, until an application for that purpose has been made to the Governor, by the Council of the County in which the Township or Townships interested may be situate, and which Council shall cause the sum requisite to defray the expenses to be incurred, or the proportion thereof payable by the inhabitants of any Township or Concession, to be levied on the said inhabitants, in the same manner as any sum required for any other local purpose authorized by law may be levied. 12 V. c. 35, s. 30.

Recital.

In what cases the Municipal Council may apply to have monuments placed.

58. And whereas in several of the Townships in Upper Canada, some of the Concession lines, or parts of the Concession lines, were not run in the original survey performed under competent authority, and the surveys of some Concession lines or parts of Concession lines have been obliterated, and owing to the want of such lines the inhabitants of such Concessions are subject to serious inconvenience: therefore the County Council of the County in which any Township in Upper Canada is situate, may, on application of one half of the resident landholders in any Concession, (or may without such application) make application to the Governor, requesting him to cause any such line to be surveyed, and marked by permanent stone boundaries under the direction and order of the Commissioner of Crown Lands, in the manner prescribed in this Act, at the cost of the proprietors of the lands in each Concession or part of a Concession interested. 12 V. c. 35, s. 31,—22 V. c. 99, s. 258.

As to the adjacent concessions.

59. The lines shall be so drawn as to leave each of the adjacent Concessions of a depth proportionate to that intended in the original survey. 12 V. c. 35, s. 31,—22 V. c. 99, s. 258.

To be permanent boundary lines.

60. The lines or parts of lines so surveyed and marked as aforesaid, shall thereafter be the permanent boundary lines of such

such Concessions or parts of Concessions to all intents and purposes of law whatsoever. 12 V. c. 35, s. 31,—22 V. c. 99, s. 258.

61. The Council shall cause to be laid before them an estimate of the sum requisite to defray the expenses to be incurred in order that the same may be levied on the said proprietors, in proportion to the quantity of land held by them respectively in such Concession or part of a Concession, in the same manner as any sum required for any other purposes authorized by law may be levied. 12 V. c. 35, s. 31,—22 V. c. 99, s. 258.

Expenses to be estimated and provided for.

Legal effect of the operation.

62. All expenses incurred in performing any survey, or placing any monument or boundary under the provisions of the preceding fifty-fourth and following sections shall be paid by the County Treasurer to the person or persons employed in such services, on the certificate and order of the Commissioner of Crown Lands. 12 V. c. 35, s. 31.

Expenses to be paid to the Government.

63. Whenever the Municipal Council of any Township, City, Town or Incorporated Village in Upper Canada adopts a resolution on application of one half the resident land-holders to be affected thereby, that it is desirable to place stone or other durable monuments at the front or at the rear, or at the front and rear angles of the lots in any Concession or Range or part of a Concession or Range in their Township, City, Town or Incorporated Village, such Municipal Council may make application to the Governor, in the same manner as is provided in the fifty-eighth and two following sections of this Act, praying him to cause a survey of such Concession or Range or part of a Concession or Range to be made, and such boundaries to be planted, under the authority of the Commissioner of Crown Lands. 18 V. c. 83, s. 8.

Municipal Councils may cause the boundaries of lots in any concession, &c., to be ascertained and marked.

64. The person or persons making such survey shall accordingly plant stone or other durable monuments at the front, or at the rear, or at the front and rear angles of each and every lot in such Concession or Range, or part of a Concession or Range, and the limits of each lot so ascertained and marked shall be the true limits thereof. 18 V. c. 83, s. 8.

To be marked by stone or some other durable monuments to be placed at the angles.

65. The cost of survey shall be defrayed in the manner prescribed by the sixty-first and sixty-second sections of this Act. 18 V. c. 83, s. 8.

How cost to be defrayed.

66. All boundary lines of Townships, Cities, Towns and Villages, all Concession lines, governing points, and all boundary lines of Concessions, sections, blocks, gores and commons, and all side-lines and limits of lots surveyed, and all posts or monuments, marked, placed or planted at the front angles of any lots or parcels of land, under the authority of the Executive Government of the late Province of Quebec or of Upper Canada,

Boundaries placed under the authority of the Government to be deemed the true ones, &c.

Canada, or under the authority of the Executive Government of this Province, shall be the true and unalterable boundaries of all and every such Townships, Cities, Towns, Villages, Concessions, Sections, Blocks, Gores, Commons, and lots or parcels of land, respectively, whether the same upon admeasurement be found to contain the exact width, or more or less than the exact width mentioned or expressed in any Letters Patent, Grant or other Instrument in respect of such Township, City, Town, Village, Concession, Section, Block, Gore, Common, lot or parcel of land. 12 V. c. 35, s. 32.

**Townships,
&c., to com-
prise all the
space included
within their
boundaries.**

67. Every Township, City, Town, Village, Concession, Section, Block, Gore, common, lot or parcel of land, shall embrace the whole width, contained between the front posts, monuments or boundaries, planted or placed at the front angles thereof respectively, so marked, placed or planted as aforesaid, and no more nor less, any quantity or measure expressed in the original grant or patent thereof notwithstanding. 12 V. c. 35, s. 32

**As to aliquot
parts of Town-
ships, &c.**

68. Every patent, grant or instrument, purporting to be for any aliquot part of any such Township, City or Town, Village, Concession, Section, Block, Gore, common, lot or parcel of land, shall be construed to be a grant of such aliquot part of the quantity the same may contain, whether such quantity be more or less than that expressed in such patent, grant or instrument. 12 V. c. 35, s. 32.

**Road allowan-
ces in Cities,
&c., to be pu-
blic highways.**

69. In every City, Town or Village in Upper Canada, which has been surveyed by the authority aforesaid, all allowances for any road, street, lane or common laid out in the original survey of such City, Town or Village, shall be public highways and commons; and all posts or monuments placed or planted in the original survey of such City, Town or Village, to designate or define any allowance for a road, street, lane, lot or common, shall be the true and unalterable boundaries of every such road, street, lane, lot and common; and all Land Surveyors, employed to make surveys in such City, Town or Village shall follow and pursue the same rules and regulations in respect of such surveys as is by law required of them when employed to make surveys in Townships. 12 V. c. 35, s. 33.

Recital.

70. Whereas many Townships, tracts or blocks of land in Upper Canada were granted by the Crown to companies and individuals before any surveys had been made therein, and such Townships, tracts or blocks of land were afterwards surveyed by the owners thereof—All such surveys of such Townships, tracts or blocks of land, shall be original surveys thereof, and shall have the same force and effect as though the said original surveys and plans thereof had been made by the authority aforesaid; and all allowances for roads or commons surveyed

surveyed in such Townships, tracts or blocks of land, and laid down on the plans thereof, shall be public highways and commons; and all lines run and marked in such original surveys, and all posts or monuments planted or placed in such original surveys, to designate and define any allowance for road, concession, lot of land or common, shall be the true and unalterable lines and boundaries of such allowance for road, common or lot of land, and all land Surveyors, when employed to make surveys in such Townships, tracts or blocks of land, shall follow and pursue the same rules and regulations in respect of such Townships, tracts or blocks of land, and the original surveys thereof, as they are by law required to follow and pursue in all Townships, tracts or blocks of land surveyed by the authority aforesaid. 12 V. c. 35, s. 34.

As to lands granted in blocks and subsequently surveyed by the grantees.

71. The course of the boundary line of each and every concession, on that side from which the lots are numbered, shall be the course of the division or side lines throughout the several Townships or Concessions in Upper Canada, respectively, provided that such division or side lines were intended, in the original survey performed under such authority as aforesaid, to run parallel to the said boundary. 12 V. c. 35, s. 35.

72. Every Surveyor shall run all division or side-lines, which he may be called upon by the owner or owners of any lands to survey, so as to correspond with and be parallel to that boundary line of the concession in which such lands are situate, from whence the lots are numbered as aforesaid, provided such division or side-lines were intended, in the original survey performed under such competent authority as aforesaid to run parallel to the said boundary. 12 V. c. 35, s. 35.

All side lines to be run parallel to governing lines.

73. When that end of a concession, from which the lots are numbered, is bounded by a Lake or River, or other natural boundary, or when it has not been run in the original survey performed under competent authority as aforesaid, or when the course of the division or side-lines of the lots therein was not intended in the original survey performed as aforesaid, to run parallel to such boundary, the said division or side-lines shall run parallel to the boundary line at the other extremity of such concession, provided their course was intended, in the original survey performed as aforesaid, to be parallel thereto, and that such boundary line was run in the original survey. 12 V. c. 35, s. 35.

Course to be adopted when concession bounded by lakes or riv

74. When in the original survey, performed under competent authority as aforesaid, the course of the division or side lines in any concession was not intended to be parallel to the boundary line at either end of such concession, they shall be run at such angle with the course of the boundary line at that end of the concession from which the lots are numbered, as is stated in the plan and field-notes of the original survey, of

When division or side lines not intended to run parallel to the side lines at either end of a concession.

record in the Office of the Commissioner of Crown Lands, provided such line was run in the original survey as aforesaid, or with the course of the boundary line at the other extremity of the said concession, if the boundary at that end of the concession from which the lots are numbered was not run in the original survey; or if neither of the aforesaid boundaries of the concession were run in the original survey, or if the concession be bounded at each end by a Lake or River or other natural Boundary, then at such angle with the course of the line in front of the said concession, as is stated in the plan and field-notes aforesaid. 12 V. c. 35, s. 35.

When a division or proof line has been run between lots, the same shall govern.

75. If any division or side-line between lots, or proof-line intended to be parallel to the division or side-lines between lots, was drawn in any such concession in the original survey thereof, the division or side-lines between the lots therein shall be drawn parallel to such division or side-line or proof-line. 12 V. c. 35, s. 35.

Where there are two of such lines, the line nearest the end of the concession, from which the lots are numbered, to govern to the next of such lines.

76. When two or more such division or side-lines or proof-lines were drawn in the original survey of such concession, that division or side-line or proof-line which is nearest to the boundary of the concession from which the lots are numbered, shall govern the course of the division or side-lines of all the lots in such concession between the boundary of the concession from which the lots are numbered and the next division or side-line or proof-line drawn in the original survey, and such last mentioned line or proof-line shall govern the course of the division or side-lines of all the lots up to the next division or side-line or proof-line drawn in the original survey, or to the boundary of the concession towards which the lots are numbered, as the case may be. 12 V. c. 35, s. 35.

How lines to be governed in Townships laid out in sections under the O.C. of the 27th March, 1829.

77. In all those Townships in Upper Canada, which in the original survey were divided into sections, agreeably to an Order in Council bearing date the Twenty-seventh day of March, one thousand eight hundred and twenty-nine, the division or side-lines in all concessions, in any section shall be governed by the boundary lines of such section, in like manner as the division or side-lines in Townships originally surveyed before the said day are governed by the boundary lines of the concession in which the lots are situate. 12 V. c. 35, s. 35.

What shall be deemed the front of a concession in certain cases.

78. The front of each concession in any Township in Upper Canada, where only a single row of posts has been planted on the concession lines, and the lands have been described in whole lots, shall be that end or boundary of the concession which is nearest to the boundary of the Township, from which the several concessions thereof are numbered. 12 V. c. 35, s. 36.

79. In those Townships in Upper Canada which are bounded in front by a river or lake where no posts or other boundaries were planted in the original survey on the bank of such river or lake to regulate the width in front of the lots in the broken front concessions, the division or side-lines of the lots in such broken front concessions shall be drawn from the posts or other boundaries on the concession line in rear thereof, parallel to the governing line determined as aforesaid to the river or lake in front, and when the line in front of any such concession was not run in the original survey, the division or side-lines of the lots in such concession shall be run from the original posts or monuments placed or planted on the front line of the concession in the rear thereof, parallel to the governing line determined as aforesaid to the depth of the concession—that is, to the centre of the space contained between the lines in front of the adjacent concessions, if the concessions were intended in the original survey to be of an equal depth or if they were not so intended, then to the proportionate depth intended in the original survey, as shown on the plan and field-notes thereof of record in the office of the Commissioner of Crown Lands, having due respect to any allowance for a road or roads made in the original survey; and a straight line joining the extremities of the division or side-lines of any lot in such concession drawn as aforesaid, shall be the true boundary of that end of the lot which was not run in the original survey. 12 V. c. 35, s. 36.

Townships bounded in front by rivers or lakes, the lines to be drawn from posts in rear of the concession; when.

When the front line of any concession was not run in the original survey.

80. In those Townships in Upper Canada in which the concessions have been surveyed with double fronts, that is, with posts or monuments planted on both sides of the allowances for roads between the concessions, and the lands have been described in half lots, the division or side-lines shall be drawn from the posts at both ends to the centre of the concession, and each end of such concession shall be the front of its respective half of such concession, and a straight line joining the extremities of the division or side-lines of any half lot in such concession, drawn as aforesaid, shall be the true boundary of that end of the half lot which has not been bounded in the original survey. 12 V. c. 35, s. 37.

Fronts of concessions in certain other cases, depths of lots, &c.

81. And whereas some of the double front Concessions in the Townships in Upper Canada, are not of the full depth, and doubts have arisen as to the manner in which the division or side-lines in such concessions should be established:—Therefore in such concessions the division or side-lines shall be drawn from the posts at both ends thereof, to the centre of the concession, as provided in the last preceding section of this Act, without reference to the manner in which the lots or parts of lots in such concession have been described for Patent. 18 V. c. 83, s. 9.

Mode of drawing lines in double fronted concessions.

82. In those Townships in which each alternate concession line only has been run in the original survey, but with double

As to concessions in cases where alternate fronts

concession lines only have been run.

fronts as aforesaid, the division or side-lines shall be drawn from the posts or monuments on each side of such alternate concession lines to the depth of a concession, that is, to the centre of the space contained between such alternate concession lines, if the concessions were intended in the original survey to be of an equal depth, or if they were not so intended, then to the proportionate depth intended in the original survey, as shewn on the plan and field-notes thereof of record in the office of the Commissioner of Crown Lands; and each alternate concession line as aforesaid shall be the front of each of the two concessions abutting thereon. 12 V. c. 35, s. 38.

As to lands in adjoining concessions included in the same grant.

83. In all cases where any Crown Patent of Grant, or other Instrument, has been issued for several lots or parcels of land in concessions adjoining each other, the side-lines or limits of the lots or parcels of land therein mentioned and expressed, shall commence at the front angles of such lots or parcels of land respectively, and shall be run as hereinbefore provided, and shall not continue on in a straight line, through several concessions, unless the side-lines or limits, when run as aforesaid, intersect the corresponding post or monument in the front of the concession next in rear, that is to say, each such lot or parcel of land shall be surveyed and bounded according to the provisions of this Act, independently of the other lots or parcels mentioned in the same grant or instrument. 12 V. c. 35, s. 44.

Rule when a line is to be drawn parallel to a governing line.

84. Every Land Surveyor employed to run any division-line or side-line between lots, or any line required to run parallel to any division-line or side-line in the concession in which the land to be surveyed lies, shall, if it has not been done before, or if it has been done, but the course cannot at such time be ascertained, determine by astronomical observation, the true course of a straight line between the front and rear ends of the governing boundary line of the concession or section, and shall run such division-line or side-line as aforesaid, truly parallel to such straight line, if so intended in the original survey, or at such angle therewith as is stated in the plan and field-notes as aforesaid, which shall be deemed to be the true course of the said governing or boundary line for all the purposes of this Act, although such governing or boundary line as marked in the field be curved or deviate otherwise from a straight course; and the same rule shall be observed, if a line is to be run at any angle with a front line or other line, which may not be straight. 12 V. c. 35, s. 39.

Cases where the original post or monument cannot be found, provided for in Upper Canada.

85. In all cases when any Land Surveyor is employed in Upper Canada to run any side-line or limits between lots, and the original post or monument from which such line should commence cannot be found, he shall obtain the best evidence that the nature of the case admits of, respecting such side-line, post or limit; but if the same cannot be satisfactorily ascertained, then the Surveyor shall measure the true distance between

between the nearest undisputed posts, limits or monuments and divide such distance into such number of lots as the same contained in the original survey, assigning to each a breadth proportionate to that intended in such original survey, as shewn on the plan and field-notes thereof, of record in the office of the Commissioner of Crown Lands; and if any portion of the line in front of the concession in which such lots are situate, or boundary of the Township in which such concession is situate, has been obliterated or lost, then the Surveyor shall run a line between the two nearest points or places where such line can be clearly and satisfactorily ascertained, in the manner provided in this Act, and shall plant all such intermediate posts or monuments as he may be required to plant, in the line so ascertained, having due respect to any allowance for a road or roads, common or commons, set out in such original survey; and the limits of each lot so found shall be the true limits thereof. 18 V. c. 83, s. 10.

86. In those townships in Upper Canada in which the side lines of the lots were drawn in the original survey, every Provincial Land Surveyor, when called upon to determine any disputed boundary in any of such townships, shall ascertain and establish the division or side-lines of the lots, by running such side-lines as they were run in the original survey, whether the same were in the original survey run from the front of the concession to the rear, or from the rear of the concession to the front, and shall adhere to all posts, limits or monuments, planted on the division or side-lines in the original survey, as being or designating corners of lots under such original survey. 20 V. c. 73, s. 1.

If side lines
were drawn in
original survey,
the same to be
adhered to.

87. And whereas Towns and Villages in Upper Canada have been or may be surveyed and laid out by companies and individuals, and by different owners of the lands comprising the same, and lands have been or may be sold therein according to the surveys and plans thereof, therefore all allowances for roads, streets or commons, which have been surveyed in such Towns and Villages in Upper Canada, and laid down on the plans thereof, and upon which lots of land fronting on or adjoining such allowances for roads, streets or commons have been or may be sold to purchasers, shall be public highways, streets and commons; and all lines which have been or may be run, and the courses thereof given in the survey of such Towns and Villages, and laid down on the plans thereof, and all posts or monuments which have been or may be placed or planted in the first survey of such Towns and Villages to designate or define any such allowances for roads, streets, lots or commons, shall be the true and unalterable lines and boundaries thereof respectively. 12 V. c. 35, s. 41,--See 13, 14 V. c. 15.

As to allowan-
ces for roads or
streets in
Towns or Vil-
lages laid out
by private
owners.

88. No lot or lots of land in such Towns and Villages shall be so laid out as to interfere with, obstruct, shut up, or be composed

Town or village
lots not to be
laid out so as to

interfere with
any allowance
for roads.

composed of any part of any allowance for road, common or commons, which were surveyed and reserved in the original survey of the Township or Townships wherein such Towns or Villages are or may be situate.

When first
surveys or
plans may be
altered.

89. Any owner or owners of any such Town or Village, or the owner or owners of any original division thereof, may amend or alter the first survey and plan of any such Town or Village, or any original particular division thereof, provided no lots of land have been sold fronting on or adjoining any street or streets, common or commons where such alteration is made.

No private
survey valid
unless made
by a licensed
Surveyor.

Original own-
ers or their
heirs to deposit
plan of towns
or villages laid
out by them.

90. No such private survey shall be valid, unless performed by a duly authorized Surveyor. 12 V. c. 35, s. 41.

91. The original owner or owners of the lands forming the site of any Town or Village in Upper Canada, mentioned in the four last preceding sections of this Act, or the agent or agents, heirs or other legal representatives of the original owner or owners of any such Town or Village, or any original division thereof, shall, (if not already done) provide and deposit in the Registry Office of the County wherein such Town or Village is situate, a fair and correct plan or map of such Town or Village, or original division thereof, on a scale of not less than one inch to every four chains, and shall lay down thereon all roads, streets, lots and commons within the same, with the courses and width thereof respectively, and the width and length of all lots, and the courses of all division-lines between the respective lots within the same, together with such information as will show the lots, concessions, tracts or blocks of land of the Township wherein such Town or Village is situate. 12 V. c. 35, s. 42.

Plan to be cer-
tified.

92. Every such plan or map of every such Town or Village or original division thereof, shall be certified by some Land Surveyor, and also by the original owner or owners thereof, or the legal representative or representatives of such owner or owners, as being a correct plan or map of the same. 12 V. c. 35, s. 42.

Copies of re-
gistered plans,
to be evidence
of the originals.

93. Every copy of such plan or map obtained from such Registry Office, and certified as correct by the Registrar or Deputy Registrar of such County, shall be taken as evidence of the original plan and survey of such Town or Village in all Courts of Record and in all other Courts in Upper Canada. 12 V. c. 35, s. 42.

Duty of the
Registrar in
whose office
any such plan
is deposited.

94. Whenever any such plan or map of any such Town or Village, in Upper Canada, or original division thereof, has been made and deposited in the Registry Office of the County wherein the lands are situate, the Registrar of such County shall

shall make a record of the same, and enter the day and year on which the same is deposited in his office ; and for such service the said Registrar shall be entitled to charge the same fees, as by law established for making a record of any other document, which is by law required to be entered of record in his office but no higher fees. 12 V. c. 35, s. 43.

95. Every Registrar shall keep a separate book for the registering of title deeds of lands situate in any such Town or Village, in the same manner as is by law required for registering title deeds for lands situate in Townships. 12 V. c. 35, s. 43.

96. If the owner or owners of any such Town or Village, or any original division thereof, or their agents, heirs, or other legal representatives, refuse or neglect to make or cause to be made, the plan or map of such Town or Village, or original division thereof, and deposit the same in the Registry Office of the County wherein the same is situate, within one year from and after the time of surveying and laying out the same, he or they shall forfeit and pay for such refusal or neglect, the sum of ten dollars, and a like sum for every year thereafter until such plan or map be made and deposited in the Registry Office of the County wherein the Town or Village is situate. 12 V. c. 35, s. 42.

97. The payment of any such penalty or penalties shall not free or discharge such owner or owners, their agents, or other legal representatives, from any penalties which may not have been paid at the time of such payment. 12 V. c. 35, s. 42.

98. The several Penalties or Forfeitures mentioned in the preceding sections of this Act, may be recovered upon information and complaint before any three of Her Majesty's Justices of the Peace of the County in which the lands lie, and shall be levied by warrant signed by any two of the Justices, who have heard the complaint, directed to the Sheriff of the County, commanding him, the said Sheriff, to make of the Goods and Chattels of the person or persons convicted on such information and complaint in his County, the amount of such Penalties or Forfeitures, and the costs of such conviction, and to return the said warrant, and to pay the moneys thereon made to the Treasurer of the County, on a day to be therein named, being not less than one month from the date of such warrant, and the said moneys shall be appropriated in like manner as the Assessment levied for the general use of such County. 12 V. c. 35, s. 42,—8 V. c. 58, s. 6.

99. In case the Sheriff returns on the said warrant, that the person or persons so convicted has or have no goods in his County, then, any two Justices of the said County, shall issue a like warrant to the Sheriff, against the Lands and Tenements of

Registrar to
keep a sepa-
rate registry
book, &c.

Effect of pay-
ment of any
penalty.

Penalties, &c.,
how recover-
able, and their
appropriation.

Where the
owner has no
goods his lands
may be sold by
Sheriff.

of the said person or persons in the said County, returnable in one year from the date thereof, and the Sheriff shall thereupon advertise the said Lands for sale, and sell the same, in the same manner as he is authorized and required by law to advertise and sell lands under a Writ of *Fieri Facias*. 8 V. c. 58, s. 7.

Preamble.

Where no plan of an unincorporated village has been registered, Township Council to cause one to be made.

Cost how paid.

100. Whereas there are many unincorporated Villages in Upper Canada of which no plan or map has been deposited pursuant to law in the Registry Office of the County within which the same are respectively situate, in consequence of the several original owners of the lands comprising the said Villages either not having jointly laid out and surveyed the same, or because some of the original owners left no legal representatives, and it is necessary that the law regulating the depositing of Plans of such Villages in the Registry Office of the County within which the same are respectively situated, be amended: Therefore, in each and every case in Upper Canada where an unincorporated Village comprises different parcels of land, owned at the original division thereof by two or more persons, and the same was not jointly surveyed and laid out into a village plot, and where in such case no entire plan or map of the said Village has been deposited with the Registrar of the County within which the same is situate, the Municipality of the Township within which the said Village is situate, shall (if not already done) immediately cause a plan or map of such Village to be made on the scale now required by law, and deposited in the Registry Office of the County within which the said Village is situate; and the expense attending the getting up of the map and depositing it as aforesaid shall be paid out of the general funds of the Municipality, or by a local tax upon the rate-payers of the Village. 22 V. c. 42. (1859.)

Surveyors in U. C. to keep regular journals and field notes and furnish copies to parties interested.

101. Every Land Surveyor in Upper Canada shall keep exact and regular journals and field-notes of all his surveys, and file them in the order of time in which the surveys have been performed, and shall give copies thereof to the parties concerned when so required, for which he is hereby allowed the sum of one dollar for each copy, if the number of words therein do not exceed four hundred words, but if the number of words exceed four hundred, he is allowed ten cents additional for every hundred words, over and above four hundred words. 12 V. c. 35, s. 45.

Surveyors in U. C. may administer oaths for certain purposes.

102. For better ascertaining the original limits of any lot, concession, range, Township or tract of land in Upper Canada, every Land Surveyor acting in that portion of this Province, shall and may administer an oath or oaths to each and every person whom he examines concerning any boundary, post or monument, or any original land mark, line, limit or angle of any

any Township, concession, range, lot or tract of land which such Surveyor may be employed to survey. 12 V. c. 35, s. 46.

103. All evidence taken by any Surveyor as aforesaid, in Upper Canada, shall be reduced to writing, and shall be read over to the person giving the same and be signed by such person, or if he cannot write, he shall acknowledge the same as correct before two witnesses, who shall sign the same as also the Surveyor; and such evidence shall, and any document or plan prepared and sworn to as correct before a Justice of the Peace, by any Surveyor, with reference to any survey by him performed may be filed and kept in the Registry Office of the County in which the lands to which the same relates are situate, subject to be produced thereafter in evidence in any Court of Law or Equity within Upper Canada: and—12 V. c. 35, s. 47.

Evidence taken by Surveyors in U. C. to be reduced to writing and signed, &c.

1. For receiving and filing the same, the Registrar shall be entitled to twenty-five cents; and

2. The expense of filing the same shall be borne by the parties in the same manner as other expenses of the survey. 12 V. c. 35, s. 47.

104. If any person, in any part of this Province, wilfully swears or affirms falsely concerning any matter with regard to which an oath may be required under this Act, such person shall be deemed guilty of wilful and corrupt perjury, and being thereof convicted before any competent Court shall be liable to be punished accordingly. 12 V. c. 35, s. 48.

105. In case an action of ejectment be brought in Upper Canada against any person, who, after any line or limit has been established according to this Act, may be found, in consequence of unskilful survey, to have improved on lands not his own, the Judge of Assize before whom such action is tried, shall direct the Jury to assess damages for the defendant for any loss he may sustain in consequence of any improvement made before the commencement of such action, and also to assess the value of the land to be recovered; and if a verdict be found for the claimant, no Writ of Possession shall issue until such claimant has tendered or paid the amount of such damages, or has offered to release the said land to the defendant provided the said defendant before the fourth day of the ensuing term, pays or tenders to the claimant the value of the land so assessed. 12 V. c. 35, s. 49.

As to cases in Upper Canada where from unskilful survey, a party may have improved lands afterwards found to belong to his neighbour.

106. In all cases in which the Jury before whom any action of ejectment may be tried in Upper Canada, assess damages for the defendant as provided in the next preceding section, for improvements made upon land not his own in consequence of unskilful survey, and when it satisfactorily appears that the defendant does not contest the claimant's action for any other purpose

Claimant not to have costs in such cases from the time defendant offers to give up the lands on receiving the purpose

value of his improvements, stating the amount.

Unless the jury assess the improvements, at less than the sum demanded.

When no proof of claimant's title required.

Punishments of persons removing or defacing land marks.

As to Surveyors.

Tariff of Fees.

purpose than to obtain the value of the improvements made upon the land previous to the alteration and establishment of the lines according to law, the Judge before whom such action is tried, shall certify such fact upon the record, and thereupon the defendant shall be entitled to the costs of the defence, in the same manner as if the claimant had been non-suited on the trial, or a verdict had been rendered for the defendant; provided the defendant, at the time of appearing, gave notice in writing to the claimant in such ejectment, or to his Attorney named on the Writ, of the amount claimed for such improvements, and that on payment of such amount the defendant or person in possession would surrender the possession to such claimant, and that the said defendant did not intend at the trial to contest the title of the claimant; and if on the trial it be found that such notice was not given as aforesaid, or if the jury assess for the defendant a less amount than that claimed in the notice, or find that the defendant had refused to surrender possession of the land after tender made of the amount claimed, then in any such case the Judge shall not certify, and the defendant shall not be entitled to the costs of the defence, but shall pay costs to the claimant; and upon the trial of any cause after such notice no evidence shall be required to be produced in proof of the title of the claimant. 12 V. c. 35, s. 50.

107. If any person knowingly and wilfully pulls down, defaces, alters or removes any monument so erected as aforesaid, such person shall be adjudged guilty of Felony; and if any person knowingly and wilfully defaces, alters or removes any other land mark, post, or monument placed by any Land Surveyor, to mark any limit, boundary or angle of any Township Concession, range, lot or parcel of land, in Upper Canada or in Lower Canada, such person or persons shall be deemed guilty of a misdemeanor, and being convicted thereof before any competent Court, shall be liable to be punished by fine or imprisonment, or both, at the discretion of such Court, such fine not to exceed one hundred dollars, and such imprisonment not to be for a longer period than Three months, without any prejudice to any civil remedy which any party may have against such offender or offenders in damages by reason of such offence; But this shall not extend to prevent Land Surveyors, in their operations, from taking up posts or other boundary marks when necessary after which they shall carefully replace them as they were before. 12 V. c. 35, s. 29.

108. The following fees shall be paid under the provisions of this Act:

1. To the Secretary of the proper Board by each Apprentice, at the transmitting to such Secretary the Indenture or Articles of such Apprentice. 18
V. c. 83, s. 3. \$2 00

2. To the Secretary of the proper Board by each Candidate for examination with his notice thereof. 12 V. c. 35, s. 7,.....	\$ 1 00
3. To the Secretary of the proper Board by each Applicant obtaining a Certificate, as his fee thereon. 12 V. c. 35, s. 7,—14, 15 V. c. 4, s. 3.....	2 00
4. To the Secretary of the proper Board as an admission fee by each Applicant receiving a Certificate, out of which the expenses attending the examination of such Applicant (if any) shall be first paid, and the remainder, (if any,) shall be paid over to the Commissioner of Crown Lands and be accounted for like other moneys received by him. 14, 15 V. c. 4, s. 4,—12 V. c. 35, s. 8,—18 V. c. 83, s. 1.....	20 00
5. To every Surveyor summoned to attend any Court, civil or criminal, for the purpose of giving evidence in his professional capacity as a Surveyor, for each day he so attends, (in addition to his travelling expenses, [if any,]) and to be taxed and paid in the manner by law provided with regard to the payment of witnesses attending such Court. 18 V. c. 83, s. 6.....	4 00

109. A copy of this Act shall be sent to every Land Surveyor Copies of this in this Province, in the same manner as the other Statutes are Act to be sent to every Surveyor. sent to the parties entitled to receive the same. 12 V. c. 35, s. 52.

110. The words "Commissioner of Crown Lands" Interpretation wherever they occur in this Act, shall mean the person dis- clause. charging the duty of that officer. 12 V. c. 35, s. 51.

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